



Federal Communications Commission  
Washington, D.C. 20554

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Re: CC Docket No. 94-102: Responsibility for Costs of E911 Phase II ALI Database Upgrades

This letter responds to several *ex parte* communications from BellSouth Corporation, Sprint PCS, and Verizon Wireless regarding a dispute over responsibility for the costs to upgrade automatic location information (ALI) databases for purposes of deploying wireless enhanced 911 (E911) Phase II service. These databases are typically provided by incumbent local exchange carriers (ILECs) and used by 911 public safety answering points (PSAPs) to identify the location of 911 callers.

In its *ex parte* letters, BellSouth asserts that Commission precedent supports recovering certain network upgrade costs for E911 Phase II from wireless carriers.<sup>1</sup> For example, BellSouth proposes to recover costs for the E2 interface it will install to upgrade its ALI database by means of a usage-based charge assessed on wireless carriers.<sup>2</sup> Wireless carriers Sprint PCS and Verizon Wireless claim, to the contrary,

<sup>1</sup> Letter from Kathleen B. Levitz, Vice President Federal Regulatory, BellSouth Corporation, to Marlene H. Dortch, Secretary, FCC, Docket No. 94-102, dated August 23, 2002 (BellSouth Aug. 23 letter); Letter from Kathleen B. Levitz, Vice President Federal Regulatory, BellSouth Corporation, to Marlene H. Dortch, Secretary, FCC, Docket No. 94-102, dated September 11, 2002 (BellSouth Sept. 11, letter); Letter from Kathleen B. Levitz, Vice President Federal Regulatory, BellSouth Corporation, to Marlene H. Dortch, Secretary, FCC, Docket No. 94-102, dated September 30, 2002 (BellSouth Sept. 30, letter); Letter from Kathleen B. Levitz, Vice President Federal Regulatory, BellSouth Corporation, to Marlene H. Dortch, Secretary, FCC, Docket No. 94-102, dated October 17, 2002 (BellSouth Oct. 17 letter).

<sup>2</sup> Initially, BellSouth proposed a rate of \$0.63 "per dip," i.e., per location information request from the ALI database by a PSAP. It later revised this proposal to \$0.11 per 911 call. Compare BellSouth Aug. 23 letter with BellSouth Sept. 30 letter.

that Commission precedent establishes that costs associated with ALI database upgrades, including E? interfaces, are the responsibility of the PSAPs.<sup>3</sup>

As an initial matter, we reiterate the Commission view that implementation of wireless E911 is a priority matter that requires the involvement of multiple parties, and that the best approach to timely and efficient roll-out of this vital service is through cooperative joint efforts and good faith negotiation among all of these parties. At the same time, the Commission has also directed staff in the Wireless Telecommunications Bureau (Bureau), in the event of an impasse in such negotiations that is delaying the deployment of wireless E911 services, to help resolve disagreements among the parties on an expedited basis.<sup>4</sup> In this case, it appears that the dispute over responsibility for the E2 ALI database interface and associated costs has indeed reached an impasse that is delaying a planned Phase II test in Spartanburg/Greenville, South Carolina. It also appears likely that failure to address this dispute promptly will result in delays in other Phase II tests and deployments.

**E2 Interface Issue:** In our view, Commission decisions concerning Phase II responsibilities make clear that, in the absence of an agreement among the affected parties to the contrary, the responsibility for costs associated with ALI database interface upgrades lies with PSAPs, not with wireless carriers. The Bureau's *King County Letter*,<sup>5</sup> as affirmed in the Commission's *King County Reconsideration Order*,<sup>6</sup> clarified that the proper demarcation point for allocating costs between the wireless carriers and the PSAPs is the input to the 911 Selective Router maintained by the ILEC. The *King County Letter* specifically enumerated certain costs as being the responsibility of PSAPs, including the costs of maintaining and/or upgrading the 911 Selective Router, the trunks between the 911 Selective Router and the PSAP, the ALI database, and the PSAP customer premises equipment (CPE).<sup>7</sup>

The E2 interface, the focus of the dispute, is used to send a query from the ALI database to a Mobile Positioning Center (MPC), typically maintained by the wireless carrier or a third party provider, requesting the transmission of location information back to the ALI database. This interface is a software upgrade to the ALI database; as such, costs associated with implementing the interface are the responsibility of the PSAP under the *King County* decisions.

BellSouth argues, however, that the Commission did not intend for PSAPs to be responsible for the E2 functionality, because it "goes outside" of the existing 911 system in order to retrieve location

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<sup>3</sup> Letter from Luisa L. Lancetti, Vice President, Sprint PCS, to Secretary, FCC, dated August 13, 2002 (Sprint PCS Aug. 13 letter); Letter from Luisa L. Lancetti, Vice President, Sprint PCS, to Marlene H. Dortch, Secretary, FCC, dated September 9, 2002 (Sprint PCS Sept. 9 letter), at 4-5; Letter from John T. Scott, III, Vice President & Deputy General Counsel, Verizon Wireless, to Barry Ohlson, Wireless Telecommunications Bureau, FCC, dated October 10, 2002 (Verizon Wireless Oct. 10 letter), at 6.

<sup>4</sup> Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, **Second Memorandum Opinion and Order**, 14 FCC Rcd 20850, 20854, 20886 (para. 7, 92) (1999).

<sup>5</sup> Letter from Thomas J. Sugrue, Chief, Wireless Telecommunications Bureau, to Marlys Davis, E911 Program Manager, Department of Information and Administrative Services, King County Washington, dated May 7, 2001 (*King County Letter*).

<sup>6</sup> Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, FCC 02-146 (released July 24, 2002) (*King County Reconsideration Order*).

<sup>7</sup> *King County Letter* at 1.

<sup>8</sup> See Verizon Wireless Oct. 10 letter at 5.

information from the wireless carriers' MPCs.<sup>9</sup> BellSouth appears to reason that, because the E2 interface has been designed to "pull" location data from the MPC, rather than having the MPC "push" location data to the ALI database, wireless carriers need the E2 interface to meet their obligation to deliver location data to PSAPs, and so should be held responsible for the costs of implementing the interface." However this reasoning fails to take account of the intent and express language of the *King County* and *City of Richardson* decisions. The *King County* decisions establish a specific demarcation point between wireless carrier and PSAP responsibilities. Under those decisions, wireless carriers bear all Phase I and Phase II costs up to that point and PSAPs bear all Phase I and Phase II costs beyond it.<sup>11</sup> The decisions also specifically identify the network components that are considered to lie on either side of the demarcation point, and expressly list the ALI database as being on the PSAP side of the demarcation point.<sup>12</sup>

The *King County* decisions did not, as BellSouth implies, conclude that network components would shift across this demarcation line depending upon a functional analysis of particular network components. In particular, they did not contemplate such a shift of responsibilities based on whether a "push" or "pull" technology is used to control delivery of information from the wireless carrier to the ALI database. A fundamental purpose of the *King County* decisions was to provide clarity and certainty for both wireless carriers and PSAPs on the proper division of costs so that wireless E911 deployment could move forward, even in the absence of agreements on such responsibilities. The 911 Selective Router demarcation point was intended to provide such clarity, in a fair, reasonable, understandable way. As the decisions make clear, all Phase I and Phase II costs incurred on one side of that point are the responsibility of the wireless carrier, while all costs on the other, including upgrade costs for the ALI database, are the responsibility of the PSAP. Aside from being inconsistent with the language of the *King County* decisions, BellSouth's approach would fundamentally undercut the Commission's purpose in setting a "bright line" demarcation point.

To the extent that any doubts might remain on this issue, they are resolved by the *City of Richardson* decision.<sup>13</sup> In that Order, the Commission addressed the steps necessary for a valid and timely PSAP request. As in the *King County* decisions, *City of Richardson* also specifies that the PSAP is responsible for ALI database upgrades.<sup>14</sup> Further, *City of Richardson* makes clear that the upgrades that perform the query functions of the E2 interface are considered ALI database upgrades whose costs are the responsibility of the PSAP:

We note, however, that migration from an NCAS Phase I solution to Phase II requires an additional upgrade to the ALI database so that it will query the Mobile Positioning Center (MPC) at the appropriate time to acquire the Phase II latitude/longitude data. We determine, therefore, that where a wireless carrier has challenged the Phase II request of

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<sup>9</sup> BellSouth October 17 letter at 2.

<sup>10</sup> *Id.*

<sup>11</sup> *King County Letter* at 3: "[T]he Bureau views section 20.18(d) as requiring wireless carriers to bear all Phase I costs up to the input of the 911 Selective Router and PSAPs to bear all Phase I costs beyond that point." In the *King County Order*, the Commission extended this principle to Phase II.

<sup>12</sup> *King County Letter* at 1

<sup>13</sup> Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Petition of City of Richardson, Texas, Order, CC Docket No. 94-102, 16 FCC Rcd 18982 (2001). *petition for reconsideration pending (City of Richardson J.*

<sup>14</sup> *Id.* at 18982 (para. 1) and 18987-8 (para. 16).

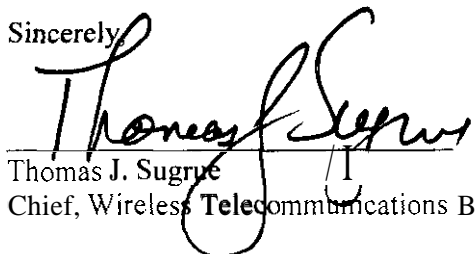
a PSAP that is Phase I-capable using an NCAS technology. a presumption exists that the PSAP will be ready to receive and utilize the Phase II data within the six-month period, provided that it has made a timely request to the appropriate LEC for the ALI database upgrade necessary to receive the Phase II data, and that it has the necessary funding, as required by section **20.180**) of our rules."

This decision allocates responsibilities for Phase II costs in a fair, clear, and reasonable way. We reiterate, though, that interested parties – *i.e.*, PSAPs and wireless carriers – may also agree voluntarily to assign costs in a different way.

**Other Issues:** The E2 interface cost issue appears to be the major area of dispute between BellSouth and the wireless carriers. Clarification of that issue provided herein should substantially advance the Phase II process and, we hope, allow all parties to proceed with necessary testing and final Phase II implementation. The *ex parte* filings, however, also raise other issues, including the necessity for a Phase II contract, the specific terms of any such contract, and whether BellSouth is providing a service to wireless carriers as customers.<sup>16</sup> We anticipate that, with this letter, all parties will now proceed expeditiously to negotiate and resolve all existing issues so that testing and implementation will progress as quickly as possible. To allow us to monitor this process, we direct that BellSouth, Sprint PCS, and Verizon Wireless report to us on their progress, and any continuing impasses or barriers to Phase II testing and implementation, within five business days of the date of this letter.

Should you have any questions with respect to any portion of this letter, please do not hesitate to contact the Bureau's Policy Division at (202) 418-1310.

Sincerely,

  
Thomas J. Sugrue  
Chief, Wireless Telecommunications Bureau

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<sup>15</sup> /d. at 18987 (para.17).

<sup>16</sup> See, e.g., Verizon Wireless Oct. 10 letter at 1-3.